

Town Council Meeting: 09 July 2012



Town of Garrett Park
PO Box 84
4600 Waverly Avenue
Garrett Park, MD 20896

Regular Meeting of Town Council
Garrett Park Town Hall
10814 Kenilworth Avenue
Garrett Park, MD 20896

MINUTES

Call to Order: Mayor Benjamin called the meeting to order at 7:30 pm. Present were Councilmembers Flynn, Mandel, Petito, Schulp, and Wegner. Also present were Administrator Pratt and a small number of Town residents.

Approval of Agenda: The agenda was approved as revised without objection

Approval of Minutes

- The Mayor and Council reviewed the minutes of the 06/11/2012 Regular Council Meeting. Mayor Benjamin noted that the effective date on the attached Ordinance 2005-11 was incorrect and that the correct copy of the ordinance with an effective date of July 3rd should be attached. The minutes were approved, as corrected, without objection.

Report by the Mayor

- Mayor Benjamin commented on the Town's response to the recent storm damage, noting that Town staff did an exceptional job doing what they could to clean up and make roads passable immediately after the storm and that residents pulled together and supported each other cleaning up and dealing with the power outage in extreme heat. Mayor Benjamin stated that Pepco had not set appropriate priorities, often leaving life-threatening situations un-remediated. The lack of an effective response from Pepco to public inquiries and requests for assistance was very disturbing, and the Mayor has spoken to Congressman Van Hollen and Montgomery Council President Berliner about this matter; both will hold hearings and the Mayor will participate.
- Mayor Benjamin reported to the Council that the Town's trash hauler was experimenting with single-stream recycling, using a private company to process recyclables instead of Montgomery County, which requires separation of paper products. The Mayor clarified that residents should not be concerned when they saw all recycling going into a single trash truck. Mayor Benjamin informed the Council that the hauler would be getting back to the Town in a couple of months to propose any changes to the Town's recycling program as a result of the experiment.
- The Mayor noted that life-time resident Pam Morgan had died on Sunday, July 1st, commented on her and her family's contributions to the Town, its many

organizations, and its government, and stated that there will be a Memorial Service in the Town Hall on Sunday, July 22nd, at 2:00.

Action

- August meeting

Mayor Benjamin asked if the Council wished not to meet in August.

Councilmember Petito **MOVED**

That the Council not meet in August. The motion was seconded by Councilmember Wegner, and was **PASSED** unanimously

- Potential use of power of eminent domain to obtain easement

Mayor Benjamin summarized the need for the repairs to the Shelley Court drain, noting that beyond its performance as a storm drain, there were urgent issues of public health and safety, and the protection of private property. The Town's engineers had explored various possible layouts, the primary constraint being potential conflict with the WSSC sewer pipe that shares the existing drainage easement with the Town's drain. The Mayor briefed the Council on the various easements already granted and the outstanding proposed Mayer permanent easement at the rear of 10702 Keswick Street, a total of 5ft x30ft, fully located within the County's 5ft minimum set back requirement. The Mayor noted that the Town had revised the design a number of times over the past year to reduce this easement as much as possible, and that despite these best efforts and a number of meetings with the Mayers, no agreement as to granting the easement had been reached.

The Mayor expressed his concern about the threat to the Newman property at 10701 Shelley Court, through which both the Town drain and the WSSC sewer passed, and that the Town has to start work as soon as possible. The Mayor reviewed a number of options for dealing with the Mayers: compensate them at some level; grant them a variance as a quid pro quo for the easement; establish a new route around other side of Newman property, or go to court seeking an eminent domain taking of the easement.

After extended discussion, the Mayor asked the Council to grant him authority to enter into eminent domain proceedings if further discussion with the Mayers is unsuccessful in obtaining the needed easement, and stated that he will inform the Council if it is necessary to proceed to court before doing so. There was brief discussion. Mayor Benjamin introduced Ms. Sally Newman who spoke to the Council, pointing out that she has the most to lose if the drain is not repaired, in that the existing drain is already in a failed condition, with many sinkholes, some of which threaten her house's foundation. Mayor Benjamin noted that the Mayers had been invited to attend the meeting to present their views, but were not present. Mayor Benjamin asked for action on a motion to authorize eminent domain, if necessary,

and suggested that the Council hold an executive session at the close of the regular meeting to discuss specifics regarding negotiations with the Mayers.

Councilmember Mandel **MOVED**

That the Mayor be authorized to proceed with further negotiations with the Mayers regarding a storm drain easement on their property, and to pursue an eminent domain taking if, in the mayor's judgment, that course of action is warranted. The motion was seconded by Councilmember Wegner, and was **PASSED** unanimously.

Councilmember Petito **MOVED**

That the Council go into executive session at the close of the regular meeting for the purpose of consulting with staff about pending or potential litigation. (Executive Session Form is attached to these minutes) The motion was seconded by Councilmember Wegner, and was **PASSED** unanimously

Discussion

- Proposal from the Parks and Open Space Committee (POSCO) for regulation of use of Cambria Field:

Mayor Benjamin asked Councilmember Petito to introduce the POSCO draft proposal. Councilmember Petito briefed the Council on the process used by POSCO to develop the proposal presented. POSCO member Todd Del Priore addressed the Council concerning current use of the Cambria ball field by outside groups in an unregulated manner, noting the committee's concerns regarding increased pressure on the park by area population growth, the need to maintain access to the field by town residents, related parking problems, trash, etc. There was extended discussion. Mr. Del Priore asked the Council's opinion on posting a sign and circulated an example. Mayor Benjamin asked if it was the sense of the Council to post a sign. Acknowledging an objection only from Councilmember Flynn, the Mayor suggested that POSCO put up a sign, to be reviewed by the Mayor before installation, which emphasizes the use of the field by Garrett Park residents and organizations. Todd agreed to call Brit-Am, the current commercial user, to request that Cambria be taken off its list of fields.

- Report on MML Conference - Councilmembers Schulp and Flynn reported on their experiences at the recent Maryland Municipal League Annual Conference

Questions on Town Administrator's Monthly Report:

- Administrator Pratt reviewed the June financial report with the Council.

Adjournment: The meeting adjourned at 9:40 pm.

Respectfully Submitted,

[TOWN SEAL]

Edwin Pratt, Jr.

Edwin Pratt, Jr., Clerk-Treasurer